

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 19-0534.01 Jennifer Berman x3286

**SENATE BILL 19-062**

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**SENATE SPONSORSHIP**

**Sonnenberg,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A REQUIREMENT THAT AN EXECUTIVE AGENCY OBTAIN**  
102             **AN ADDITIONAL STATUTORY GRANT OF RULE-MAKING**  
103             **AUTHORITY TO CHANGE THE SUBSTANTIVE IMPACT OF AN**  
104             **EXISTING AGENCY RULE UNLESS CIRCUMSTANCES THAT**  
105             **UNDERMINE THE LEGALITY OF THE EXISTING AGENCY RULE ARE**  
106             **PRESENT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires an executive agency with rule-making authority

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

to obtain additional statutory rule-making authority to amend or reinterpret an existing rule unless the rule is amended or reinterpreted based on:

- ! The rule's expiration or pending expiration as a result of its inclusion in the annual rule review bill; or
- ! A determination that the existing rule has been rendered unconstitutional or otherwise in contravention of the law based on a court decision or changes made to state or federal statutes, federal regulations, or the state or federal constitution.

Any rule that an agency promulgates or reinterprets without complying with the requirement to obtain additional statutory rule-making authority is void.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-4-103, **add** (15)  
3 as follows:

4 **24-4-103. Rule-making - procedure - definitions - statutory**  
5 **citation correction.** (15) (a) EXCEPT AS SPECIFIED IN SUBSECTION (15)(b)  
6 OF THIS SECTION, IF AN AGENCY HAS ALREADY PROMULGATED A RULE  
7 PURSUANT TO A STATUTORY GRANT OF RULE-MAKING AUTHORITY, THE  
8 AGENCY MUST OBTAIN AN ADDITIONAL GRANT OF STATUTORY  
9 RULE-MAKING AUTHORITY TO AMEND OR REINTERPRET THE RULE. A RULE  
10 MAY ONLY BE REPROMULGATED OR REINTERPRETED IF AUTHORIZED BY A  
11 STATUTE ENACTED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (15).  
12 AN AGENCY MAY REPEAL AN EXISTING RULE WITHOUT AN ADDITIONAL  
13 GRANT OF STATUTORY RULE-MAKING AUTHORITY.

14 (b) THE REQUIREMENT FOR AN ADDITIONAL GRANT OF  
15 RULE-MAKING AUTHORITY SET FORTH IN SUBSECTION (15)(a) OF THIS  
16 SECTION DOES NOT APPLY IF THE AGENCY AMENDS OR REINTERPRETS A  
17 RULE BASED ON:

18 (I) THE EXISTING RULE'S EXPIRATION OR PENDING EXPIRATION

1 PURSUANT TO SUBSECTION (8)(c)(I) OF THIS SECTION; OR

2 (II) A DETERMINATION, WHICH MUST BE INCLUDED IN THE  
3 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE  
4 ACCOMPANYING THE AMENDED RULE, IF THE RULE IS BEING AMENDED,  
5 THAT THE EXISTING RULE HAS BEEN RENDERED UNCONSTITUTIONAL OR  
6 OTHERWISE IN CONTRAVENTION OF THE LAW BASED ON:

7 (A) A COURT DECISION;

8 (B) AN AMENDMENT TO AN EXISTING STATE OR FEDERAL STATUTE  
9 OR THE ENACTMENT OF A NEW STATE OR FEDERAL STATUTE;

10 (C) THE PROMULGATION OF A NEW OR AMENDED FEDERAL  
11 REGULATION; OR

12 (D) AN AMENDMENT TO THE STATE OR FEDERAL CONSTITUTION.

13 (c) ANY RULE THAT AN AGENCY PROMULGATES OR REINTERPRETS  
14 WITHOUT COMPLYING WITH THIS SUBSECTION (15) IS VOID.

15 **SECTION 2. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
17 the expiration of the ninety-day period after final adjournment of the  
18 general assembly (August 2, 2019, if adjournment sine die is on May 3,  
19 2019); except that, if a referendum petition is filed pursuant to section 1  
20 (3) of article V of the state constitution against this act or an item, section,  
21 or part of this act within such period, then the act, item, section, or part  
22 will not take effect unless approved by the people at the general election  
23 to be held in November 2020 and, in such case, will take effect on the  
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to rules promulgated or reinterpreted on or  
26 after the applicable effective date of this act.